



General Assembly

February Session, 2012

Governor's Bill No. 27

LCO No. 525

00525_____

Referred to Committee on Government Administration and Elections

Introduced by:

SEN. WILLIAMS, 29th Dist.

SEN. LOONEY, 11th Dist.

REP. DONOVAN, 84th Dist.

REP. SHARKEY, 88th Dist.

**AN ACT TRANSITIONING THE REGULATIONS OF CONNECTICUT
STATE AGENCIES TO AN ONLINE FORMAT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-167 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2013*):

3 (a) In addition to other regulation-making requirements imposed by
4 law, each agency shall: (1) Adopt as a regulation a description of its
5 organization, stating the general course and method of its operations
6 and the methods whereby the public may obtain information or make
7 submissions or requests; (2) adopt as a regulation rules of practice
8 setting forth the nature and requirements of all formal and informal
9 procedures available provided such rules shall be in conformance with
10 the provisions of this chapter; and (3) make available for public
11 inspection, upon request, paper copies of all regulations and all other
12 written statements of policy or interpretations formulated, adopted or

13 used by the agency in the discharge of its functions, and all forms and
14 instructions used by the agency.

15 (b) No agency regulation is enforceable against any person or party,
16 nor may it be invoked by the agency for any purpose, until (1) it has
17 been made available for public inspection as provided in this section
18 and (2) the regulation or a notice of the adoption of the regulation has
19 been published [in the Connecticut Law Journal] online by the
20 Secretary of the State pursuant to section 4-173, as amended by this act.
21 This provision is not applicable in favor of any person or party who
22 has actual notice or knowledge thereof. The burden of proving the
23 notice or knowledge is on the agency. The provisions of subdivision (2)
24 of this subsection shall not apply to regulations adopted under
25 subsection (f) of section 4-168, as amended by this act.

26 Sec. 2. Section 4-168 of the 2012 supplement to the general statutes is
27 repealed and the following is substituted in lieu thereof (*Effective July*
28 *1, 2013*):

29 (a) Except as provided in subsection (g) of this section, an agency,
30 prior to adopting a proposed regulation, shall: (1) Give at least thirty
31 days' notice by publication [in the Connecticut Law Journal] online by
32 the Secretary of the State of its intended action. The notice shall include
33 (A) either a statement of the terms or of the substance of the proposed
34 regulation or a description sufficiently detailed so as to apprise
35 persons likely to be affected of the issues and subjects involved in the
36 proposed regulation, (B) a statement of the purposes for which the
37 regulation is proposed, (C) a reference to the statutory authority for the
38 proposed regulation, (D) when, where and how interested persons
39 may obtain a copy of the small business impact and regulatory
40 flexibility analyses required pursuant to section 4-168a, and (E) when,
41 where and how interested persons may present their views on the
42 proposed regulation; (2) give electronic notice to each joint standing
43 committee of the General Assembly having cognizance of the subject
44 matter of the proposed regulation; (3) give electronic or paper copy

45 notice to all persons who have made requests to the agency for
46 advance notice of its regulation-making proceedings. The agency may
47 charge a reasonable fee for such notice based on the estimated cost of
48 providing the service; (4) provide a paper copy or electronic version of
49 the proposed regulation to persons requesting it. The agency may
50 charge a reasonable fee for paper copies in accordance with the
51 provisions of section 1-212; (5) [no later than the date of publication of
52 the notice in the Connecticut Law Journal,] prepare a fiscal note,
53 including an estimate of the cost or of the revenue impact (A) on the
54 state or any municipality of the state, and (B) on small businesses in
55 the state, including an estimate of the number of small businesses
56 subject to the proposed regulation and the projected costs, including
57 but not limited to, reporting, recordkeeping and administrative,
58 associated with compliance with the proposed regulation and, if
59 applicable, the regulatory flexibility analysis prepared under section 4-
60 168a. The governing body of any municipality, if requested, shall
61 provide the agency, within twenty working days, with any
62 information that may be necessary for analysis in preparation of such
63 fiscal note; (6) afford all interested persons reasonable opportunity to
64 submit data, views or arguments, orally at a hearing granted under
65 subdivision (7) of this subsection or in writing, and to inspect and copy
66 or view online and print the fiscal note prepared pursuant to
67 subdivision (5) of this subsection; (7) grant an opportunity to present
68 oral argument if requested by fifteen persons, by a governmental
69 subdivision or agency or by an association having not less than fifteen
70 members, if notice of the request is received by the agency within
71 fourteen days after the date of publication of the notice; and (8)
72 consider fully all written and oral submissions respecting the proposed
73 regulation and revise the fiscal note prepared in accordance with the
74 provisions of subdivision (5) of this subsection to indicate any changes
75 made in the proposed regulation. Notice and all accompanying
76 documents prepared by an agency pursuant to this subsection shall be
77 published online by the Secretary of the State not later than five
78 calendar days after such agency has submitted such notice and

79 documents to the Secretary of the State. Each agency shall post the
80 notice and all accompanying documents on its Internet web site. No
81 regulation shall be found invalid due to the failure of an agency to give
82 notice to each committee of cognizance pursuant to subdivision (2) of
83 this subsection, provided one such committee has been so notified.

84 (b) If an agency is required by a public act to adopt regulations, the
85 agency, within five months after the effective date of the public act or
86 by the time specified in the public act, shall publish [in the Connecticut
87 Law Journal the notice required by] online pursuant to subsection (a)
88 of this section of its intent to adopt regulations. If the agency fails to
89 publish the notice within such five-month period or by the time
90 specified in the public act, the agency shall submit [a written] an
91 electronic statement of its reasons for failure to do so to the Governor,
92 the joint standing committee having cognizance of the subject matter
93 of the regulations and the standing legislative regulation review
94 committee. The agency shall electronically submit the required
95 regulations to the standing legislative regulation review committee, as
96 provided in subsection (b) of section 4-170, as amended by this act, not
97 later than one hundred eighty days after publication of the notice of its
98 intent to adopt regulations, or electronically submit a [written]
99 statement of its reasons for failure to do so to the committee.

100 (c) An agency may begin the regulation-making process under this
101 chapter before the effective date of the public act requiring or
102 permitting the agency to adopt regulations, but no regulation may take
103 effect before the effective date of such act.

104 (d) Upon reaching a decision on whether to proceed with the
105 proposed regulation or to alter its text from that initially proposed, the
106 agency, at least twenty days before submitting the proposed regulation
107 to the standing legislative regulation review committee, shall
108 electronically mail or mail a paper copy to all persons who have made
109 submissions pursuant to subdivision (6) of subsection (a) of this
110 section or who have made statements or oral arguments concerning

111 the proposed regulation and who have requested notification, notice
112 that it has decided to take action on the proposed regulation and that it
113 has made available for copying and inspection pursuant to the
114 Freedom of Information Act, as defined in section 1-200: (1) The final
115 wording of the proposed regulation; (2) a statement of the principal
116 reasons in support of its intended action; and (3) a statement of the
117 principal considerations in opposition to its intended action as urged
118 in written or oral comments on the proposed regulation and its reasons
119 for rejecting such considerations.

120 (e) Except as provided in subsection (f) of this section, no regulation
121 may be adopted, amended or repealed by any agency until it is (1)
122 approved by the Attorney General as to legal sufficiency, as provided
123 in section 4-169, (2) approved by the standing legislative regulation
124 review committee, as provided in section 4-170, as amended by this
125 act, and (3) [filed in] published online by the office of the Secretary of
126 the State, as provided in section 4-172, as amended by this act.

127 (f) (1) An agency may proceed to adopt an emergency regulation in
128 accordance with this subsection without prior notice or hearing or
129 upon any abbreviated notice and hearing that it finds practicable if (A)
130 the agency finds that adoption of a regulation upon fewer than thirty
131 days' notice is required (i) due to an imminent peril to the public
132 health, safety or welfare or (ii) by the Commissioner of Energy and
133 Environmental Protection in order to comply with the provisions of
134 interstate fishery management plans adopted by the Atlantic States
135 Marine Fisheries Commission or to meet unforeseen circumstances or
136 emergencies affecting marine resources, (B) the agency states in
137 writing its reasons for that finding, and (C) the Governor approves
138 such finding in writing.

139 (2) The original of such emergency regulation and an electronic
140 copy shall be submitted to the standing legislative regulation review
141 committee in the form prescribed in subsection (b) of section 4-170, as
142 amended by this act, together with a statement of the terms or

143 substance of the intended action, the purpose of the action and a
144 reference to the statutory authority under which the action is
145 proposed, not later than ten days, excluding Saturdays, Sundays and
146 holidays, prior to the proposed effective date of such regulation. The
147 committee may approve or disapprove the regulation, in whole or in
148 part, within such ten-day period at a regular meeting, if one is
149 scheduled, or may upon the call of either chairman or any five or more
150 members hold a special meeting for the purpose of approving or
151 disapproving the regulation, in whole or in part. Failure of the
152 committee to act on such regulation within such ten-day period shall
153 be deemed an approval. If the committee disapproves such regulation,
154 in whole or in part, it shall notify the agency of the reasons for its
155 action. An approved regulation, filed in the office of the Secretary of
156 the State, may be effective for a period of not longer than one hundred
157 twenty days renewable once for a period of not exceeding sixty days,
158 provided notification of such sixty-day renewal is filed in the office of
159 the Secretary of the State and a copy is given to the committee, but the
160 adoption of an identical regulation in accordance with the provisions
161 of subsections (a), (b) and (d) of this section is not precluded. The sixty-
162 day renewal period may be extended an additional sixty days for
163 emergency regulations described in subparagraph (A)(ii) of
164 subdivision (1) of this subsection, provided the Commissioner of
165 Energy and Environmental Protection requests of the standing
166 legislative regulation review committee an extension of the renewal
167 period at the time such regulation is submitted or not less than ten
168 days before the first sixty-day renewal period expires and said
169 committee approves such extension. Failure of the committee to act on
170 such request within ten days shall be deemed an approval of the
171 extension.

172 (3) If the necessary steps to adopt a permanent regulation, including
173 publication of notice of intent to adopt, preparation and submission of
174 a fiscal note in accordance with the provisions of subsection (b) of
175 section 4-170, as amended by this act, and approval by the Attorney
176 General and the standing legislative regulation review committee, are

177 not completed prior to the expiration date of an emergency regulation,
178 the emergency regulation shall cease to be effective on that date.

179 (g) If an agency finds (1) that technical amendments to an existing
180 regulation are necessary because of (A) the statutory transfer of
181 functions, powers or duties from the agency named in the existing
182 regulation to another agency, (B) a change in the name of the agency,
183 (C) the renumbering of the section of the general statutes containing
184 the statutory authority for the regulation, or (D) a correction in the
185 numbering of the regulation, and no substantive changes are
186 proposed, or (2) that the repeal of a regulation is necessary because the
187 section of the general statutes under which the regulation has been
188 adopted has been repealed and has not been transferred or reenacted,
189 it may elect to comply with the requirements of subsection (a) of this
190 section or may proceed without prior notice or hearing. Any such
191 amendments to or repeal of a regulation shall be submitted in the form
192 and manner prescribed in subsection (b) of section 4-170, as amended
193 by this act, to the Attorney General, as provided in section 4-169, and
194 to the standing legislative regulation review committee, as provided in
195 section 4-170, as amended by this act, for approval and upon approval
196 shall be [filed in] submitted to the office of the Secretary of the State
197 with, in the case of renumbering of sections only, a correlated table of
198 the former and new section numbers.

199 (h) No regulation adopted after October 1, 1985, is valid unless
200 adopted in substantial compliance with this section. A proceeding to
201 contest any regulation on the ground of noncompliance with the
202 procedural requirements of this section shall be commenced within
203 two years from the effective date of the regulation.

204 Sec. 3. Subsections (e) and (f) of section 4-170 of the 2012
205 supplement to the general statutes are repealed and the following is
206 substituted in lieu thereof (*Effective July 1, 2013*):

207 (e) If the committee rejects a proposed regulation without prejudice,
208 in whole or in part, it shall notify the agency of the reasons for the

209 rejection and the agency shall resubmit the regulation in revised form,
210 if the adoption of such regulation is required by the general statutes or
211 any public or special act, not later than the first Tuesday of the second
212 month following such rejection without prejudice and may so resubmit
213 any other regulation, in the same manner as provided in this section
214 for the initial submission with a summary of revisions identified by
215 paragraph. The committee shall review and take action on such
216 revised regulation no later than thirty-five days after the date of
217 submission, as provided in subsection (b) of this section. Publication of
218 the notice [in the Connecticut Law Journal] online pursuant to the
219 provisions of section 4-168, as amended by this act, shall not be
220 required in the case of such resubmission.

221 (f) If an agency fails to [file] submit any regulation approved in
222 whole or in part by the standing legislative regulation review
223 committee [in] to the office of the Secretary of the State as provided in
224 section 4-172, as amended by this act, within fourteen days after the
225 date of approval, the agency shall notify the committee, within five
226 days after such fourteen-day period, of its reasons for not so filing. If
227 any agency fails to comply with the time limits established under
228 subsection (b) of section 4-168, as amended by this act, or under
229 subsection (e) of this section, the administrative head of such agency
230 shall submit to the committee a written explanation of the reasons for
231 such noncompliance. The committee, upon the affirmative vote of two-
232 thirds of its members, may grant an extension of the time limits
233 established under subsection (b) of section 4-168, as amended by this
234 act, and under subsection (e) of this section. If no such extension is
235 granted, the administrative head of the agency shall personally appear
236 before the standing legislative regulation review committee, at a time
237 prescribed by the committee, to explain such failure to comply. After
238 any such appearance, the committee may, upon the affirmative vote of
239 two-thirds of its members, report such noncompliance to the
240 Governor. Within fourteen days thereafter the Governor shall report to
241 the committee concerning the action the Governor has taken to ensure
242 compliance with the provisions of section 4-168, as amended by this

243 act, and with the provisions of this section.

244 Sec. 4. Section 4-172 of the general statutes is repealed and the
245 following is substituted in lieu thereof (*Effective July 1, 2013*):

246 (a) After approval of a regulation as required by sections 4-169 and
247 4-170, as amended by this act, or after reversal of a decision of the
248 standing committee by the General Assembly pursuant to section 4-
249 171, each agency shall [file in] submit to the office of the Secretary of
250 the State [two certified copies] an electronic copy of such regulation
251 together with a statement from the department head of such agency
252 certifying that such electronic copy is a true and accurate copy of the
253 regulation approved in accordance with sections 4-169 and 4-170, as
254 amended by this act. Each regulation when [filed] so submitted shall
255 be in the form intended for publication, and each section of the
256 regulation shall include the appropriate regulation section number and
257 a section heading. The Secretary of the State shall, [keep a permanent
258 register of] not later than five calendar days after submission by the
259 agency, publish the regulations online in a manner that is open to
260 public inspection.

261 (b) Each regulation hereafter adopted is effective upon [filing]
262 publication by the Secretary of the State in accordance with this
263 section, except that: (1) If a later date is required by statute or specified
264 in the regulation, the later date is the effective date; (2) a regulation
265 may not be effective before the effective date of the public act requiring
266 or permitting the regulation; and (3) subject to applicable
267 constitutional or statutory provisions, an emergency regulation
268 becomes effective immediately upon [filing with] submission to the
269 Secretary of the State, or at a stated date less than twenty days
270 thereafter, if the agency finds that this effective date is necessary
271 because of imminent peril to the public health, safety, or welfare. The
272 agency's finding and a brief statement of the reasons therefor shall be
273 [filed] submitted with the regulation. The agency shall take
274 appropriate measures to make emergency regulations known to the

275 persons who may be affected by them.

276 [(c) The Secretary of the State, upon receipt of the certified copies of
277 each regulation as provided in subsection (a) of this section, shall
278 include the effective date of the particular regulation on one copy
279 thereof, and forward the copy to the Commission on Official Legal
280 Publications which shall publish the regulation in accordance with the
281 provisions of section 4-173.]

282 Sec. 5. Section 4-173 of the general statutes is repealed and the
283 following is substituted in lieu thereof (*Effective July 1, 2013*):

284 (a) The [Commission on Official Legal Publications] Secretary of the
285 State shall publish [and distribute] online a compilation of all effective
286 regulations adopted by all state agencies subsequent to October 27,
287 1970, except regulations adopted pursuant to subsection (f) of section
288 4-168. [Such publication may be a supplement to or revision of the
289 most current compilation, and shall be published at least
290 semiannually. The Commission on Official Legal Publications] The
291 Secretary of the State may omit from such compilation (1) any
292 regulation that is incorporated by reference into a Connecticut
293 regulation and published by or otherwise available in printed or
294 electronic form from a federal agency, a government agency of another
295 state or a commercial publishing company, and (2) any regulation that
296 [is too expensive to publish, or (3) any regulation the publication of
297 which would be unduly cumbersome] is incorporated by reference
298 into a Connecticut regulation and to which a third party holds the
299 intellectual property rights. If the [commission] Secretary omits a
300 regulation from the compilation, [it] he or she shall publish in the
301 compilation a notice identifying the omitted regulation, stating the
302 general subject matter of the regulation and stating an address,
303 telephone number, web site link, if applicable, and any other
304 information needed to obtain a copy of the regulation. The Secretary of
305 the State shall also provide a web site link, if applicable, to any
306 regulation adopted by reference. Such [address and telephone number]

307 information shall be kept current. [in each semiannual publication of
308 the compilation. The commission shall publish any regulation that has
309 been omitted from publication under subdivision (2) of this subsection
310 as soon as the commission has sufficient funds.]

311 (b) All regulations published online pursuant to subsection (a) of
312 this section shall be accessible to the public and shall be the official
313 version of the regulations of state agencies for all purposes, including
314 all legal and administrative proceedings. The Secretary of the State
315 may adopt regulations, in accordance with the provisions of chapter
316 54, specifying the format in which state agencies shall submit the final
317 approved version of such regulations and all other documents
318 required pursuant to this section and sections 4-167, 4-168, 4-170 and 4-
319 172, as amended by this act.

320 [(b) The Commission on Official Legal Publications shall in addition
321 cause to be published in the Connecticut Law Journal at least monthly
322 the text of all regulations received by the commission from the office of
323 the Secretary of the State pursuant to section 4-172 during the
324 preceding month. The commission may omit from the Connecticut
325 Law Journal (1) any regulation submitted in accordance with
326 subsection (g) of section 4-168, for the purposes of renumbering
327 sections only, if a correlated table of the former and new section
328 numbers is published in lieu of the full text, (2) any regulation that is
329 incorporated by reference into a Connecticut regulation and published
330 by or otherwise available in printed form from a federal agency, a
331 government agency of another state or a commercial publishing
332 company, and (3) any regulation the publication of which would be
333 too expensive or unduly cumbersome. If the commission omits a
334 regulation from publication in the Connecticut Law Journal under
335 subdivision (2) or (3) of this subsection, the commission shall publish
336 in the Connecticut Law Journal a notice identifying the omitted
337 regulation, stating the general subject matter of the regulation and
338 stating an address, telephone number and any other information
339 needed to obtain a copy of the regulation.

340 (c) Each agency which adopts a regulation shall make the regulation
341 available for inspection and copying at its main office.

342 (d) Any publication made pursuant to subsections (a) and (b) of this
343 section shall be made available upon request to agencies and officials
344 of this state free of charge, and to other persons at prices fixed by the
345 Commission on Official Legal Publications, in accordance with section
346 51-216b.

347 (e) The compilation of regulations published under subsection (a) of
348 this section and all Connecticut regulations omitted from the
349 compilation under subsection (a) shall be maintained in the reference
350 collection of each law library described in section 11-19a.]

351 Sec. 6. Subsection (c) of section 51-216a of the general statutes is
352 repealed and the following is substituted in lieu thereof (*Effective July*
353 *1, 2013*):

354 (c) [In addition to the publication of regulations pursuant to section
355 4-173, the] The commission shall publish in the Connecticut Law
356 Journal except as they may be incorporated into any revision of the
357 Connecticut Practice Book: (1) Rules adopted by the judges of the
358 Supreme Court, including but not limited to the rules adopted by the
359 Supreme Court for the courts of probate, (2) the rules of the Appellate
360 Court, and (3) the rules of the Superior Court.

361 Sec. 7. Subsection (g) of section 51-216a of the general statutes is
362 repealed and the following is substituted in lieu thereof (*Effective July*
363 *1, 2013*):

364 (g) All official legal publications published by the commission
365 pursuant to this section [and each compilation of effective regulations
366 published by the commission pursuant to section 4-173] shall be
367 printed on paper that meets or exceeds the American National
368 Standards Institute standards for permanent paper, unless such paper
369 is not available.

370 Sec. 8. (*Effective from passage*) (a) There is established a Regulation
371 Modernization task force.

372 (b) The task force shall consist of the following members:

373 (1) One appointed by the House chairman of the standing legislative
374 regulation review committee;

375 (2) One appointed by the Senate chairman of the standing legislative
376 regulation review committee;

377 (3) Two appointed by the Secretary of the State;

378 (4) Two appointed by the Chief Justice of the Supreme Court;

379 (5) One appointed by the Commissioner of Administrative Services
380 or such commissioner's designee; and

381 (6) Two appointed by the Governor.

382 (c) Any member of the task force appointed under subdivision (1) or
383 (2) of subsection (b) of this section may be a member of the General
384 Assembly.

385 (d) All appointments to the task force shall be made not later than
386 thirty days after the effective date of this section. Any vacancy shall be
387 filled by the appointing authority.

388 (e) The Governor shall select the chairperson of the task force from
389 among the members of the task force.

390 (f) The task force shall develop a plan to ensure that by July 1, 2013,
391 the regulations of Connecticut state agencies are available to the public
392 in an easily accessible online format. The task force shall submit the
393 plan no later than January 1, 2013, to the standing legislative regulation
394 review committee and the Governor, in accordance with the provisions
395 of section 11-4a of the general statutes. The task force shall terminate
396 on the date it submits such plan or January 1, 2013, whichever is later.

397 The plan shall include, but not be limited to:

398 (1) An identification of all physical equipment and software needed
399 to transition the regulations of Connecticut state agencies to an online
400 format;

401 (2) A recommendation identifying the appropriate state agency to
402 supervise continued maintenance of an online system once established;

403 (3) A description of all training that will be necessary to instruct
404 existing staff on the use and maintenance of such system;

405 (4) A description of the anticipated additional workload and agency
406 responsibilities that will be required to transition all such regulations
407 to an online format and to maintain such system once established;

408 (5) A description of the anticipated reduction in workload and cost
409 savings that will be achieved as a result of transitioning all such
410 regulations to an online format;

411 (6) An estimate of the cost to implement and maintain such system
412 along with recommendations on how the state may recover such costs;
413 and

414 (7) Recommendations for any additional legislation the task force
415 finds necessary to facilitate the transition of such regulations to an
416 online format.

417 (g) The task force shall, if necessary, employ an expert consultant to
418 advise the task force on technical aspects involved with implementing
419 and maintaining an online system of the regulations of Connecticut
420 state agencies. The task force is authorized to seek bonding, through
421 the Department of Administrative Services, to pay the costs of such
422 consultant.

423 (h) The Legislative Commissioners' Office, the Commission on
424 Official Legal Publications, and all executive branch agencies shall

425 cooperate and provide information to the task force as necessary to
426 fulfill its duties.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2013</i>	4-167
Sec. 2	<i>July 1, 2013</i>	4-168
Sec. 3	<i>July 1, 2013</i>	4-170(e) and (f)
Sec. 4	<i>July 1, 2013</i>	4-172
Sec. 5	<i>July 1, 2013</i>	4-173
Sec. 6	<i>July 1, 2013</i>	51-216a(c)
Sec. 7	<i>July 1, 2013</i>	51-216a(g)
Sec. 8	<i>from passage</i>	New section

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]